

DETAILED ACTION

This office action is responsive to amendment filed on 12/20/2007.

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Justas Geringson on 03/19/2008.

The application has been amended as follows:

1. Cancel claims 20-38.
2. In claim 3, line 2, replace "the controlling" with "said controlling the rate of the email delivery".
3. In claim 4, line 1, replace "further comprising" with "wherein".
4. In claim 4, line 2, replace "the controlling" with "said controlling"; after the term "of" and before the term "delivery", insert -- the email --.
5. In claim 6, line 2, replace "the controlling" with "said controlling the rate of the email delivery".
6. In claim 12, line 2, replace "the controlling" with "said periodically adjusting the rate of the email delivery".
7. In claim 13, line 1, replace "further comprising" with "wherein".

8. In claim 13, line 2, replace “controlling” with “said periodically adjusting”; after the term “of” and before the term “delivery”, insert -- the email --; after the term “delivery” and before the term “based”, insert -- is --.
9. In claim 51, line 7 after “MTAs;” insert – controlling the rate of the email delivery based on delivery efficiency and target delivery rate of said MTAs by increasing a number of MTAs that are allocated for delivering the email messages when the delivery efficiency of the email messages is below the target delivery rate and decreasing the number of MTAs that are allocated for delivering the email messages when the delivery efficiency is above the target delivery rate; --.
10. In claim 52, line 1, replace “further comprising” with “wherein”.
11. In claim 52, delete lines 2 and 3; line 4, delete the term “wherein”.
12. In claim 53, line 2, replace “adjusting an MTA email message delivery” with “said automatically adjusting the email message”.
13. In claim 62, line 2, replace “the controlling” with “said controlling the rate of the email delivery”.
14. In claim 63, line 2, replace “controlling” with “said controlling”; after the term “of” and before the term “delivery”, insert -- the email --.
15. In claim 65, line 2, replace “the controlling” with “said controlling the rate of the email delivery”.

Allowable Subject Matter

Claims 1-19, and 51-69 are allowable based on applicant’s Amendments/Remarks filed on 12/20/2007 and examiner’s Amendment filed on 03/19/2008.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael C. Lai whose telephone number is (571) 270-3236. The examiner can normally be reached on M-F 8:30 - 5:00 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on (571) 272-4001. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Michael C. Lai
19MAR2008

/Yves Dalencourt/

Primary Examiner, Art Unit 2157